

Kathleen Hartnett White, *Chairman*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

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CHIEF CLERKS OFFICE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 26, 2007

LaDonna Castañuela, Chief Clerk
Texas Commission on Environmental Quality
Office of the Chief Clerk (MC-105)
P.O. Box 13087
Austin, Texas 78711-3087

RE: **JOCO Holding Corporation**
TCEQ Docket No. 2006-2167-IWD

Dear Ms. Castañuela:

Enclosed for filing is the Executive Director's Response to Requests for Reconsideration in the above-entitled matter.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Tough", with a long horizontal flourish extending to the right.

Paul Tough, Staff Attorney
Environmental Law Division

cc: Mailing List

Enclosure

TCEQ DOCKET NUMBER 2006-2167-IWD

**APPLICATION BY JOCO
HOLDING CORPORATION,
TPDES PERMIT NO.
WQ0002730000**

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**BEFORE THE

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO REQUESTS FOR RECONSIDERATION

I. Introduction

The Executive Director of the Texas Commission on Environmental Quality (TCEQ or Commission) files this Response to Requests for Reconsideration (Response) on the application by JOCO Holding Corporation for a major amendment to TCEQ Permit Number WQ0002730000. A timely letter requesting a Request for Reconsideration was received from the following requestors: **Tim Davis** and **Faye Woods**.

Attached for Commission consideration are the following:

- Attachment A – Draft Permit and Technical Summary
- Attachment B – Compliance History
- Attachment C – Executive Director's Response to Comment (RTC)

Copies were also provided to all parties. The RTC was previously mailed by the Office of the Chief Clerk to all persons on the mailing list.

II. Description of the Facility

JOCO Holding Corporation (JOCO or Applicant) operates a motel and restaurant and has applied to the TCEQ for a major amendment to authorize the discharge of treated domestic and food wastewaters at a volume not to exceed a daily average flow of 10,000 gallons per day via Outfall 001. The current permit authorizes the disposal of domestic wastewater by evaporation and irrigation of 152 acres of coastal bermuda grass at an application rate not to exceed 3.85 acre-feet per year per acre irrigated. Process wastewater from the facility is treated by an activated sludge plant in the extended aeration mode. The treatment process includes a lift station, aeration basin, clarifier, effluent weir, discharge pipe, a twenty-one day holding period, chlorinator and/or chlorine basin, sludge digester, and bar screen.

The facility is located on the east side of Interstate Highway 35 West, approximately 2000 feet southeast of the Bethesda Road overpass and approximately 5.1 miles southeast of the City of Burleson, Johnson County, Texas. The treated effluent will be discharged to a series of ditches; then to Quil Miller Creek; then to Village Creek; then to Lake Arlington, in Segment No. 0828 of the Trinity River Basin. The unclassified receiving waters have no significant aquatic life use

for the series of ditches and Quil Miller Creek. The designated uses for Segment No. 0828 are high aquatic life use, contact recreation, and public water supply.

The compliance history for this facility is average.

III. Procedural Background

The application was submitted on October 20, 2004, and declared administratively complete on January 28, 2005. The Notice of Receipt and Intent (NORI) was published February 9, 2005, in the *Burleson Star*. The Executive Director completed the technical review of the application on April 15, 2005, and prepared a draft permit. The Notice of Application and Preliminary Decision (NAPD) was published November 2, 2005, in the *Burleson Star*. A public meeting was held on June 22, 2006. No comments were received at the public meeting. In response to public comment that the permit application was not available for public viewing and copying at the U.S. Post Office, the Applicant was required to republish the NAPD and make the application available for public viewing and copying at another location specified in the second NAPD. The second NAPD was published on August 21, 2006, in the *Burleson Star*. The comment period closed on September 22, 2006.

IV. Requests for Reconsideration

The regulations governing requests for reconsideration are found at Title 30 of the Texas Administrative Code (TAC), Chapter 55. Section 55.201(e) provides that any person may file a request for reconsideration of the Executive Director's decision. The request must be in writing and be filed by United States mail, facsimile, or hand delivery with the Office of the Chief Clerk within the time provided by Section 55.201(a). A request for reconsideration must be filed no later than 30 days after the Chief Clerk mails the Executive Director's decision and RTC. The request should also contain the name, address, daytime telephone number, and, where possible, fax number of the person who files the request. The request for reconsideration must expressly state that the person is requesting reconsideration of the Executive Director's decision, and give reasons why the decision should be reconsidered. A Request for Reconsideration is processed under Section 55.209.

The Chief Clerk mailed the Executive Director's decision and RTC on November 7, 2006. The Chief Clerk received two Requests for Reconsideration before the 30 day deadline. The Executive Director has determined that **Tim Davis** and **Faye Woods** timely filed Requests for Reconsideration.

A. Tim Davis: Tim Davis requested reconsideration of the Executive Director's decision because he is concerned about the following issues:

Issue 1: The series of ditches goes through the middle of his property and his property does not drain well. Since his property does not drain well, the water will be stagnate and attract mosquitoes.

ED's Response 1: The issuance of this permit to the Applicant does not grant the Applicant the right to use private or public property for the conveyance of wastewater along the discharge

route described in this permit. It is the responsibility of the Applicant to acquire property rights as may be necessary to use the discharge route. While the permit does not specifically address mosquitoes, the issuance of the permit to the Applicant does not authorize the creation of a nuisance. Neither does the permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations.

Issue 2: The impact the discharge will have on cattle grazing near or drinking the discharge. The RTC stated that the discharge would meet the standards set by the Texas Surface Water Quality Standards and that it "should not pose a problem to cattle." This means it could or would possibly pose a threat to his livestock.

ED's Response 2: The proposed permit was drafted in accordance with 30 TAC Chapter 307 and "Procedures to Implement the Texas Surface Water Quality Standards," January 2003 (Implementation Procedures). The limitations in the permit were designed to protect aquatic life and human health, and in the process protect the health of livestock.

Issue 3: The impact the discharge will have on his children.

ED's Response 3: As stated in ED's Response 2, the permit was written to protect human health and will protect human health when the Applicant operates and maintains the facility according to the requirements in the proposed permit.

Issue 4: Potential problems of discharge traveling 25 miles to Lake Arlington.

ED's Response 4: The proposed permit authorizes a discharge of treated effluent at a daily average flow not to exceed 10,000 gallons per day (gpd). The effluent will be discharged to a series of ditches, then to Quil Miller Creek, then to Village Creek, then to Lake Arlington in Segment No. 0828 of the Trinity River Basin. The unclassified receiving waters have no significant aquatic life use for the series of ditches and Quil Miller Creek. The designated uses for Segment No. 0828 are high aquatic life use, contact recreation, and public water supply. The effluent limits in the proposed permit will maintain and protect the existing instream uses.

Issue 5: The City of Burleson should handle the waste.

ED's Response 5: The Certificate of Convenience and Necessity (CCN) for the City of Burleson's sewer service area (CCN No. 20358) does not include this facility, according to TCEQ maps (available at http://www.tceq.state.tx.us/permitting/water_supply/ud/iwud.html). Section 26.0282 of the Texas Water Code, provides that in considering the amendment of a permit to discharge waste, the TCEQ may deny or alter the terms or conditions of the proposed amendment based on consideration of need, including the expected volume and quality of the influent and the availability of existing or proposed areawide or regional systems not designated as such by commission order pursuant to provisions of this subchapter. That section of the Texas Water Code is expressly directed to the control and treatment of conventional pollutants normally found in domestic wastewater. The conventional pollutants include biochemical oxygen demand (BOD), total suspended solids (TSS), pH, fecal coliform, and oil/grease (Title 40 of the Code of Federal Regulations, Section 401.16). The proposed permit is an industrial wastewater permit and the discharge contains effluent limitations for copper, a pollutant not normally found in domestic wastewater. TCEQ rules in this case do not require the Applicant to use the City of Burleson for wastewater disposal.

B. Faye Woods: Faye Woods requested reconsideration of the Executive Director's decision because she is concerned about the following issues:

Issue 1: There is no series of ditches that leads to Quil Miller Creek from Interstate Highway 35, her land is in a flood zone, and all of the water that comes from the direction of motel/restaurant stops on her property.

ED's Response 1: The issuance of this permit to the Applicant does not grant the Applicant the right to use private or public property for the conveyance of wastewater along the discharge route described in this permit. It is the responsibility of the Applicant to acquire property rights as may be necessary to use the discharge route. The issuance of this permit to the Applicant also does not authorize the creation of a nuisance and does not limit the ability of nearby landowners from seeking common law remedies for injury to persons or property or an invasion of other property rights. The application states that the discharge is to a new manmade ditch then to the existing east burrow ditch of I-35W then through a highway culvert under I-35W to a ditch and then to an unnamed tributary of Quil Miller Creek. Those are the series of ditches referenced to in the permit. Additionally, the permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of water in the state. The TCEQ has not considered flooding in water quality permit processing. However, due to the small volume of discharge, 10,000 gpd or 7 gallons per minute (gpm) based on a 24 hour day, and the distance to the requestor's property, approximately 2750 feet, it is unlikely that the discharge will reach the requestor's property, except during a rain event.

Issue 2: The impact the discharge will have on grazing cattle and attracting mosquitoes/pests.

ED's Response 2: The proposed permit was drafted in accordance with 30 TAC Chapter 307 and "Procedures to Implement the Texas Surface Water Quality Standards," January 2003 (Implementation Procedures). The limitations in the permit were designed to protect aquatic life and human health, and in the process protect the health of livestock. While the permit does not specifically address mosquitoes/pests, the issuance of the permit to the Applicant does not authorize the creation of a nuisance. Neither does the permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations.

Issue 3: Whether the discharge will reach Lake Arlington.

ED's Response 3: The proposed permit authorizes a discharge of treated effluent at a daily average flow not to exceed 10,000 gpd. Based on a 24 hour day, a flow of 10,000 gpd represents a flow rate of approximately 7 gpm. Due to the low flow rate, distance, and losses due to natural causes (evaporation), it is unlikely that the discharge will reach Lake Arlington, except during a rain event. It is not a permit requirement that the effluent reach Lake Arlington.

Issue 4: The City of Burleson should be responsible for providing sewer service or the hotel should put in a septic system.

ED's Response 4: The Certificate of Convenience and Necessity (CCN) for the City of Burleson's sewer service area (CCN No. 20358) does not include this facility, according to TCEQ maps (available at http://www.tceq.state.tx.us/permitting/water_supply/ud/iwud.html). Section 26.0282 of the Texas Water Code, provides that in considering the amendment of a permit to discharge waste, the TCEQ may deny or alter the terms or conditions of the proposed amendment based on consideration of need, including the expected volume and quality of the

influent and the availability of existing or proposed areawide or regional systems not designated as such by commission order pursuant to provisions of this subchapter. That section of the Texas Water Code is expressly directed to the control and treatment of conventional pollutants normally found in domestic wastewater. The conventional pollutants include biochemical oxygen demand (BOD), total suspended solids (TSS), pH, fecal coliform, and oil/grease (Title 40 of the Code of Federal Regulations, Section 401.16). The proposed permit is an industrial wastewater permit and the discharge contains effluent limitations for copper, a pollutant not normally found in domestic wastewater. TCEQ rules in this case do not require the Applicant to use the City of Burleson for wastewater disposal. Additionally, in this case the TCEQ did not mandate the method of wastewater disposal, whether by land application or discharge.

The Executive Director respectfully recommends that the Requests for Reconsideration filed by Tim Davis and Faye Woods be denied because the requesters have not raised any issue that requires reconsideration of the Executive Director's decision.

V. Executive Director's Recommendation

The Executive Director recommends the following actions by the Commission:

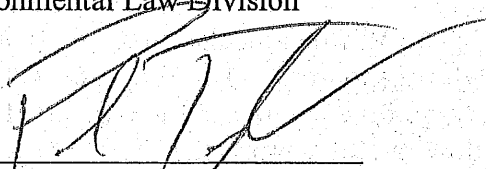
A. Deny all the Requests for Reconsideration.

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Glenn Shankle, Executive Director

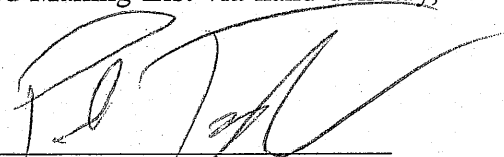
Robert Martinez, Director
Environmental Law Division

By 
Paul Tough, Staff Attorney
Environmental Law Division
Texas Bar No. 24051440
P.O. Box 13087, MC-173
Austin, Texas 78711-3087
(512) 239-6996 (Phone)
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Attorneys for the Executive Director

CERTIFICATE OF SERVICE

I certify that on February 26, 2007, the original and eleven copies of the "Executive Director's Response to Requests for Reconsideration" and attachments for Permit No. WQ0002730000 were filed with the Texas Commission on Environmental Quality's Office of Chief Clerk and a complete copy was served on all persons listed on the attached Mailing List via hand delivery, facsimile, interagency mail, or deposit in the U.S. Mail.

A handwritten signature in black ink, appearing to read "Paul Tough", written over a horizontal line.

Paul Tough, Staff Attorney
Environmental Law Division

MAILING LIST
JOCO HOLDING CORPORATION
DOCKET NO. 2006-2167-IWD; PERMIT NO. WQ0002730000

FOR THE APPLICANT:

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FOR OFFICE OF PUBLIC ASSISTANCE:

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RESOLUTION:

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FOR THE CHIEF CLERK:

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Texas Commission on Environmental Quality
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REQUESTERS:

Tim Davis
175 W. Bethesda Rd.
Burleson, Texas 76028-1611

Bennie Fay Woods
305 W. Bethesda Rd.
Burleson, Texas 76028-1633

“ATTACHMENT A”
Draft Permit and Technical Summary



TPDES PERMIT NO. WQ0002730000
[For TCEQ office use only - EPA I.D. No.
TX01276717]

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

P. O. Box 13087

Austin, Texas 78711-3087

This permit supercedes and replaces
TCEQ Permit No. WQ0002730000,
issued on August 14, 2001.

PERMIT TO DISCHARGE WASTES

under provisions of
Section 402 of the Clean Water Act
and Chapter 26 of the Texas Water Code

JOCO Holding Corporation

whose mailing address is

P. O. Box 10
Burleson, Texas 76097-0010

is authorized to treat and discharge wastes from a motel and restaurant complex (SIC 5812, 7011)

located on the east side of Interstate Highway 35 West, approximately 2000 feet southeast of the Bethesda Road overpass and approximately 5.1 miles southeast, Johnson County, Texas

to a series of ditches; thence to Quil Miller Creek; thence to Village Creek; thence to Lake Arlington in Segment No. 0828 of the Trinity River Basin

only according to effluent limitations, monitoring requirements and other conditions set forth in this permit, as well as the rules of the Texas Commission on Environmental Quality (TCEQ), the laws of the State of Texas, and other orders of the TCEQ. The issuance of this permit does not grant to the permittee the right to use private or public property for conveyance of wastewater along the discharge route described in this permit. This includes, but is not limited to, property belonging to any individual, partnership, corporation or other entity. Neither does this permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire property rights as may be necessary to use the discharge route.

This permit shall expire at midnight on September 1, 2008.

ISSUED DATE:

For the Commission

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

- During the period beginning upon the date of issuance and lasting through the date of expiration, the permittee is authorized to discharge treated domestic and food wastewaters subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.010 million gallons per day (MGD). The daily maximum flow shall not exceed 0.020 MGD.

Effluent Characteristics	Discharge Limitations			Minimum Self-Monitoring Requirements	
	Daily Average lbs/day (mg/l)	Daily Maximum lbs/day (mg/l)	Single Grab mg/l	Report Daily Average and Daily Maximum Measurement Frequency	Sample Type
Flow (MGD)	(Report)	(Report)	N/A	Continuous	Record
Biochemical Oxygen Demand (5-day)	1.67	3.76	45	1/week	Grab
Total Suspended Solids	1.67	3.76	45	1/week	Grab
Dissolved Oxygen	N/A	N/A	2	1/week	Grab
Oil and Grease	1.25	1.67	20	1/week	Grab
Total Copper (*1)	Report	Report	Report	1/week	Composite
Total Copper (*2)	0.0035	0.0075	0.089	1/week	Composite

- Beginning upon the date of issuance of permit and lasting for three years.
 - Beginning three years after issuance of permit and lasting until permit expiration.
- The effluent shall contain chlorine residual of at least 1.0 mg/l and a maximum chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes (based on peak flow), and shall be monitored five times per week, by grab sample. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.
- The pH shall not be less than 6.5 standard units nor greater than 9.0 standard units and shall be monitored 1/day by grab sample.
- There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.
- Effluent monitoring samples shall be taken at the following location: At Outfall 001, at the V-notch weir and prior to entering the series of ditches.

DEFINITIONS AND STANDARD PERMIT CONDITIONS

As required by Title 30 Texas Administrative Code (TAC) Chapter 305, certain regulations appear as standard conditions in waste discharge permits. 30 TAC §§ 305.121 - 305.129 (relating to Permit Characteristics and Conditions) as promulgated under the Texas Water Code §§ 5.103 and 5.105, and the Texas Health and Safety Code §§ 361.017 and 361.024(a), establish the characteristics and standards for waste discharge permits, including sewage sludge, and those sections of 40 Code of Federal Regulations (CFR) Part 122 adopted by reference by the Commission. The following text includes these conditions and incorporates them into this permit. All definitions in Section 26.001 of the Texas Water Code and 30 TAC Chapter 305 shall apply to this permit and are incorporated by reference. Some specific definitions of words or phrases used in this permit are as follows:

1. Flow Measurements

- a. Annual average flow - the arithmetic average of all daily flow determinations taken within the preceding 12 consecutive calendar months. The annual average flow determination shall consist of daily flow volume determinations made by a totalizing meter, charted on a chart recorder and limited to major domestic wastewater discharge facilities with a 1 million gallons per day or greater permitted flow.
- b. Daily average flow - the arithmetic average of all determinations of the daily flow within a period of one calendar month. The daily average flow determination shall consist of determinations made on at least four separate days. If instantaneous measurements are used to determine the daily flow, the determination shall be the arithmetic average of all instantaneous measurements taken during that month. Daily average flow determination for intermittent discharges shall consist of a minimum of three flow determinations on days of discharge.
- c. Daily maximum flow - the highest total flow for any 24-hour period in a calendar month.
- d. Instantaneous flow - the measured flow during the minimum time required to interpret the flow measuring device.
- e. 2-hour peak flow (domestic wastewater treatment plants) - the maximum flow sustained for a two-hour period during the period of daily discharge. The average of multiple measurements of instantaneous maximum flow within a two-hour period may be used to calculate the 2-hour peak flow.
- f. Maximum 2-hour peak flow (domestic wastewater treatment plants) - the highest 2-hour peak flow for any 24-hour period in a calendar month.

2. Concentration Measurements

- a. Daily average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar month, consisting of at least four separate representative measurements.
 - i. For domestic wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values in the previous four consecutive month period consisting of at least four measurements shall be utilized as the daily average concentration.
 - ii. For all other wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values taken during the month shall be utilized as the daily average concentration.
- b. 7-day average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar week, Sunday through Saturday.
- c. Daily maximum concentration - the maximum concentration measured on a single day, by the sample type specified in the permit, within a period of one calendar month.
- d. Daily discharge - the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in terms of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the sampling day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the sampling day.

The "daily discharge" determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the "daily discharge" determination of concentration shall be the arithmetic average (weighted by flow value) of all samples collected during that day.

- e. Fecal coliform bacteria concentration - the number of colonies of fecal coliform bacteria per 100 milliliters effluent. The daily average fecal coliform bacteria concentration is a geometric mean of the values for the effluent samples collected in a calendar month. The geometric mean shall be determined by calculating the n th root of the product of all measurements made in a calendar month, where n equals the number of measurements made; or, computed as the antilogarithm of the arithmetic mean of the logarithms of all measurements made in a calendar month. For any measurement of fecal coliform bacteria equaling zero, a substituted value of one shall be made for input into either computation method. The 7-day average for fecal coliform bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.
 - f. Daily average loading (lbs/day) - the arithmetic average of all daily discharge loading calculations during a period of one calendar month. These calculations must be made for each day of the month that a parameter is analyzed. The daily discharge, in terms of mass (lbs/day), is calculated as (Flow, MGD x Concentration, mg/l x 8.34).
 - g. Daily maximum loading (lbs/day) - the highest daily discharge, in terms of mass (lbs/day), within a period of one calendar month.
3. Sample Type
- a. Composite sample - For domestic wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (a). For industrial wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (b).
 - b. Grab sample - an individual sample collected in less than 15 minutes.
4. Treatment Facility (facility) - wastewater facilities used in the conveyance, storage, treatment, recycling, reclamation and/or disposal of domestic sewage, industrial wastes, agricultural wastes, recreational wastes, or other wastes including sludge handling or disposal facilities under the jurisdiction of the Commission.
5. The term "sewage sludge" is defined as solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in 30 TAC Chapter 312. This includes the solids which have not been classified as hazardous waste separated from wastewater by unit processes .
6. Bypass - the intentional diversion of a waste stream from any portion of a treatment facility.

MONITORING AND REPORTING REQUIREMENTS

1. Self-Reporting

Monitoring results shall be provided at the intervals specified in the permit. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall conduct effluent sampling and reporting in accordance with 30 TAC §§ 319.4 - 319.12. Unless otherwise specified, a monthly effluent report shall be submitted each month, to the Enforcement Division (MC 224), by the 20th day of the following month for each discharge which is described by this permit whether or not a discharge is made for that month. Monitoring results must be reported on an approved self-report form, that is signed and certified as required by Monitoring and Reporting Requirements No. 10.

As provided by state law, the permittee is subject to administrative, civil and criminal penalties, as applicable, for negligently or knowingly violating the Clean Water Act, the Texas Water Code, Chapters 26, 27, and 28, and Texas Health and Safety Code, Chapter 361, including but not limited to knowingly making any false statement, representation, or certification on any report, record, or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance, or falsifying, tampering with or knowingly rendering inaccurate any monitoring device or method required by this permit or violating any other requirement imposed by state or federal regulations.

2. Test Procedures

Unless otherwise specified in this permit, test procedures for the analysis of pollutants shall comply with procedures specified in 30 TAC §§319.11 - 319.12. Measurements, tests and calculations shall be accurately accomplished in a representative manner.

3. Records of Results

- a. Monitoring samples and measurements shall be taken at times and in a manner so as to be representative of the monitored activity.

- b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503), monitoring and reporting records, including strip charts and records of calibration and maintenance, copies of all records required by this permit, records of all data used to complete the application for this permit, and the certification required by 40 CFR § 264.73(b)(9) shall be retained at the facility site, or shall be readily available for review by a TCEQ representative for a period of three years from the date of the record or sample, measurement, report, application or certification. This period shall be extended at the request of the Executive Director.
- c. Records of monitoring activities shall include the following:
 - i. date, time and place of sample or measurement;
 - ii. identity of individual who collected the sample or made the measurement.
 - iii. date and time of analysis;
 - iv. identity of the individual and laboratory who performed the analysis;
 - v. the technique or method of analysis; and
 - vi. the results of the analysis or measurement and quality assurance/quality control records.

The period during which records are required to be kept shall be automatically extended to the date of the final disposition of any administrative or judicial enforcement action that maybe instituted against the permittee.

4. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit using approved analytical methods as specified above, all results of such monitoring shall be included in the calculation and reporting of the values submitted on the approved self-report form. Increased frequency of sampling shall be indicated on the self-report form.

5. Calibration of Instruments

All automatic flow measuring or recording devices and all totalizing meters for measuring flows shall be accurately calibrated by a trained person at plant start-up and as often thereafter as necessary to ensure accuracy, but not less often than annually unless authorized by the Executive Director for a longer period. Such person shall verify in writing that the device is operating properly and giving accurate results. Copies of the verification shall be retained at the facility site and/or shall be readily available for review by a TCEQ representative for a period of three years.

6. Compliance Schedule Reports

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit shall be submitted no later than 14 days following each schedule date to the Regional Office and the Enforcement Division (MC 224).

7. Noncompliance Notification

- a. In accordance with 30 TAC § 305.125(9) any noncompliance which may endanger human health or safety, or the environment shall be reported by the permittee to the TCEQ. Report of such information shall be provided orally or by facsimile transmission (FAX) to the Regional Office within 24 hours of becoming aware of the noncompliance. A written submission of such information shall also be provided by the permittee to the Regional Office and the Enforcement Division (MC 224) within five working days of becoming aware of the noncompliance. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.
- b. The following violations shall be reported under Monitoring and Reporting Requirement 7.a.:
 - i. Unauthorized discharges as defined in Permit Condition 2(g).
 - ii. Any unanticipated bypass which exceeds any effluent limitation in the permit.
 - iii. Violation of a permitted maximum daily discharge limitation for pollutants listed specifically in the Other Requirements section of an Industrial TPDES permit.
- c. In addition to the above, any effluent violation which deviates from the permitted effluent limitation by more than 40% shall be reported by the permittee in writing to the Regional Office and the Enforcement Division (MC 224) within 5 working days of becoming aware of the noncompliance.
- d. Any noncompliance other than that specified in this section, or any required information not submitted or submitted incorrectly, shall be reported to the Enforcement Division (MC 224) as promptly as possible. For effluent limitation violations, noncompliances shall be reported on the approved self-report form.

8. In accordance with the procedures described in 30 TAC §§ 35.301 - 35.303 (relating to Water Quality Emergency and Temporary Orders) if the permittee knows in advance of the need for a bypass, it shall submit prior notice by applying for such authorization.

9. Changes in Discharges of Toxic Substances

All existing manufacturing, commercial, mining, and silvicultural permittees shall notify the Regional Office, orally or by facsimile transmission within 24 hours, and both the Regional Office and the Enforcement Division (MC 224) in writing within five (5) working days, after becoming aware of or having reason to believe:

- a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant listed at 40 CFR Part 122, Appendix D, Tables II and III (excluding Total Phenols) which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - i. One hundred micrograms per liter (100 µg/L);
 - ii. Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
 - iii. Five (5) times the maximum concentration value reported for that pollutant in the permit application; or
 - iv. The level established by the TCEQ.
- b. That any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - i. Five hundred micrograms per liter (500 µg/L);
 - ii. One milligram per liter (1 mg/L) for antimony;
 - iii. Ten (10) times the maximum concentration value reported for that pollutant in the permit application; or
 - iv. The level established by the TCEQ.

10. Signatories to Reports

All reports and other information requested by the Executive Director shall be signed by the person and in the manner required by 30 TAC § 305.128 (relating to Signatories to Reports).

11. All Publicly Owned Treatment Works (POTWs) must provide adequate notice to the Executive Director of the following:

- a. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of the CWA if it were directly discharging those pollutants;
- b. Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit; and
- c. For the purpose of this paragraph, adequate notice shall include information on:
 - i. The quality and quantity of effluent introduced into the POTW; and
 - ii. Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

PERMIT CONDITIONS

1. General

- a. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in an application or in any report to the Executive Director, it shall promptly submit such facts or information.
- b. This permit is granted on the basis of the information supplied and representations made by the permittee during action on an application, and relying upon the accuracy and completeness of that information and those representations. After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked, in whole or in part, in accordance with 30 TAC Chapter 305, Subchapter D, during its term for good cause including, but not limited to, the following:
 - i. Violation of any terms or conditions of this permit;
 - ii. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
 - iii. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

- c. The permittee shall furnish to the Executive Director, upon request and within a reasonable time, any information to determine whether cause exists for amending, revoking, suspending or terminating the permit. The permittee shall also furnish to the Executive Director, upon request, copies of records required to be kept by the permit.

2. Compliance

- a. Acceptance of the permit by the person to whom it is issued constitutes acknowledgment and agreement that such person will comply with all the terms and conditions embodied in the permit, and the rules and other orders of the Commission.
- b. The permittee has a duty to comply with all conditions of the permit. Failure to comply with any permit condition constitutes a violation of the permit and the Texas Water Code or the Texas Health and Safety Code, and is grounds for enforcement action, for permit amendment, revocation or suspension, or for denial of a permit renewal application or an application for a permit for another facility.
- c. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
- d. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation which has a reasonable likelihood of adversely affecting human health or the environment.
- e. Authorization from the Commission is required before beginning any change in the permitted facility or activity that may result in noncompliance with any permit requirements.
- f. A permit may be amended, suspended and reissued, or revoked for cause in accordance with 30 TAC §§ 305.62 and 305.66 and Texas Water Code Section 7.302. The filing of a request by the permittee for a permit amendment, suspension and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- g. There shall be no unauthorized discharge of wastewater or any other waste. For the purpose of this permit, an unauthorized discharge is considered to be any discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall or otherwise defined in the Other Requirements section of this permit.
- h. In accordance with 30 TAC § 305.535(a), the permittee may allow any bypass to occur from a TPDES permitted facility which does not cause permitted effluent limitations to be exceeded or an unauthorized discharge to occur, but only if the bypass is also for essential maintenance to assure efficient operation.
- i. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under Texas Water Code §§ 7.051 - 7.075 (relating to Administrative Penalties), 7.101 - 7.111 (relating to Civil Penalties), and 7.141 - 7.202 (relating to Criminal Offenses and Penalties) for violations including, but not limited to, negligently or knowingly violating the federal Clean Water Act, §§ 301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a permit issued under the CWA § 402, or any requirement imposed in a pretreatment program approved under the CWA §§ 402 (a)(3) or 402 (b)(8).

3. Inspections and Entry

- a. Inspection and entry shall be allowed as prescribed in the Texas Water Code Chapters 26, 27, and 28, and Texas Health and Safety Code Chapter 361.
- b. The members of the Commission and employees and agents of the Commission are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit or other order of the Commission. Members, employees, or agents of the Commission and Commission contractors are entitled to enter public or private property at any reasonable time to investigate or monitor or, if the responsible party is not responsive or there is an immediate danger to public health or the environment, to remove or remediate a condition related to the quality of water in the state. Members, employees, Commission contractors, or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then in charge of his presence and shall exhibit proper credentials. If any member, employee, Commission contractor, or agent is refused the right to enter in or on public or private property under this authority, the Executive Director may invoke the remedies authorized in Texas Water Code Section 7.002. The statement above, that Commission entry shall occur in accordance with an establishment's rules and regulations concerning safety, internal security, and fire protection, is not grounds for denial or restriction of entry to any part of the facility, but merely describes the Commission's duty to observe appropriate rules and regulations during an inspection.

4. Permit Amendment and/or Renewal

- a. The permittee shall give notice to the Executive Director as soon as possible of any planned physical alterations or additions to the permitted facility if such alterations or additions would require a permit amendment or result in a violation of permit requirements. Notice shall also be required under this paragraph when:
 - i. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in accordance with 30 TAC § 305.534 (relating to New Sources and New Dischargers); or
 - ii. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements in Monitoring and Reporting Requirements No. 9;
 - iii. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.
- b. Prior to any facility modifications, additions, or expansions that will increase the plant capacity beyond the permitted flow, the permittee must apply for and obtain proper authorization from the Commission before commencing construction.
- c. The permittee must apply for an amendment or renewal prior to expiration of the existing permit in order to continue a permitted activity after the expiration date of the permit. If an application is submitted prior to the expiration date of the permit, the existing permit shall remain in effect until the application is approved, denied, or returned. If the application is returned or denied, authorization to continue such activity shall terminate upon the effective date of the action. If an application is not submitted prior to the expiration date of the permit, the permit shall expire and authorization to continue such activity shall terminate.
- d. Prior to accepting or generating wastes which are not described in the permit application or which would result in a significant change in the quantity or quality of the existing discharge, the permittee must report the proposed changes to the Commission. The permittee must apply for a permit amendment reflecting any necessary changes in permit conditions, including effluent limitations for pollutants not identified and limited by this permit.
- e. In accordance with the Texas Water Code § 26.029(b), after a public hearing, notice of which shall be given to the permittee, the Commission may require the permittee, from time to time, for good cause, in accordance with applicable laws, to conform to new or additional conditions.
- f. If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the Clean Water Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

5. Permit Transfer

- a. Prior to any transfer of this permit, Commission approval must be obtained. The Commission shall be notified in writing of any change in control or ownership of facilities authorized by this permit. Such notification should be sent to the Water Quality Applications Team (MC 161) of the Registration, Review, and Reporting Division.
- b. A permit may be transferred only according to the provisions of 30 TAC § 305.64 (relating to Transfer of Permits) and 30 TAC § 50.133 (relating to Executive Director Action on Application or WQMP update).

6. Relationship to Hazardous Waste Activities

This permit does not authorize any activity of hazardous waste storage, processing, or disposal which requires a permit or other authorization pursuant to the Texas Health and Safety Code.

7. Relationship to Water Rights

Disposal of treated effluent by any means other than discharge directly to water in the state must be specifically authorized in this permit and may require a permit pursuant to Chapter 11 of the Texas Water Code.

8. Property Rights

A permit does not convey any property rights of any sort, or any exclusive privilege.

9. Permit Enforceability

The conditions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstances, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

10. Relationship to Permit Application

The application pursuant to which the permit has been issued is incorporated herein; provided, however, that in the event of a conflict between the provisions of this permit and the application, the provisions of the permit shall control.

11. Notice of Bankruptcy.

- a. Each permittee shall notify the executive director, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 (Bankruptcy) of the United States Code (11 USC) by or against:
 - i. the permittee;
 - ii. an entity (as that term is defined in 11 USC, §101(15)) controlling the permittee or listing the permit or permittee as property of the estate; or
 - iii. an affiliate (as that term is defined in 11 USC, §101(2)) of the permittee.
- b. This notification must indicate:
 - i. the name of the permittee;
 - ii. the permit number(s);
 - iii. the bankruptcy court in which the petition for bankruptcy was filed; and
 - iv. the date of filing of the petition.

OPERATIONAL REQUIREMENTS

1. The permittee shall at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. This includes, but is not limited to, the regular, periodic examination of wastewater solids within the treatment plant by the operator in order to maintain an appropriate quantity and quality of solids inventory as described in the various operator training manuals and according to accepted industry standards for process control. Process control, maintenance, and operations records shall be retained at the facility site, or shall be readily available for review by a TCEQ representative, for a period of three years.
2. Upon request by the Executive Director, the permittee shall take appropriate samples and provide proper analysis in order to demonstrate compliance with Commission rules. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall comply with all applicable provisions of 30 TAC Chapter 312 concerning sewage sludge use and disposal and 30 TAC §§ 319.21 - 319.29 concerning the discharge of certain hazardous metals.
3. Domestic wastewater treatment facilities shall comply with the following provisions:
 - a. The permittee shall notify the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, in writing, of any facility expansion at least 90 days prior to conducting such activity.
 - b. The permittee shall submit a closure plan for review and approval to the Agriculture and Sludge Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, for any closure activity at least 90 days prior to conducting such activity. Closure is the act of permanently taking a waste management unit or treatment facility out of service and includes the permanent removal from service of any pit, tank, pond, lagoon, surface impoundment and/or other treatment unit regulated by this permit.
4. The permittee is responsible for installing prior to plant start-up, and subsequently maintaining, adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.
5. Unless otherwise specified, the permittee shall provide a readily accessible sampling point and, where applicable, an effluent flow measuring device or other acceptable means by which effluent flow may be determined.
6. The permittee shall remit an annual water quality fee to the Commission as required by 30 TAC Chapter 21. Failure to pay the fee may result in revocation of this permit under Texas Water Code § 7.302(b)(6).

7. Documentation

For all written notifications to the Commission required of the permittee by this permit, the permittee shall keep and make available a copy of each such notification under the same conditions as self-monitoring data are required to be kept and made available. Except for information required for TPDES permit applications, effluent data, including effluent data in permits, draft permits and permit applications, and other information specified as not confidential in 30 TAC § 1.5(d), any information submitted pursuant to this permit may be claimed as confidential by the submitter. Any such claim must be asserted in the manner prescribed in the application form or by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, information may be made available to the public without further notice. If the Commission or Executive Director agrees with the designation of confidentiality, the TCEQ will not provide the information for public inspection unless required by the Texas Attorney General or a court pursuant to an open records request. If the Executive Director does not agree with the designation of confidentiality, the person submitting the information will be notified.

8. Facilities which generate domestic wastewater shall comply with the following provisions; domestic wastewater treatment facilities at permitted industrial sites are excluded.

- a. Whenever flow measurements for any domestic sewage treatment facility reach 75 percent of the permitted daily average or annual average flow for three consecutive months, the permittee must initiate engineering and financial planning for expansion and/or upgrading of the domestic wastewater treatment and/or collection facilities. Whenever the flow reaches 90 percent of the permitted daily average or annual average flow for three consecutive months, the permittee shall obtain necessary authorization from the Commission to commence construction of the necessary additional treatment and/or collection facilities. In the case of a domestic wastewater treatment facility which reaches 75 percent of the permitted daily average or annual average flow for three consecutive months, and the planned population to be served or the quantity of waste produced is not expected to exceed the design limitations of the treatment facility, the permittee shall submit an engineering report supporting this claim to the Executive Director of the Commission.

If in the judgement of the Executive Director the population to be served will not cause permit noncompliance, then the requirement of this section may be waived. To be effective, any waiver must be in writing and signed by the Director of the Enforcement Division (MC 149) of the Commission, and such waiver of these requirements will be reviewed upon expiration of the existing permit; however, any such waiver shall not be interpreted as condoning or excusing any violation of any permit parameter.

- b. The plans and specifications for domestic sewage collection and treatment works associated with any domestic permit must be approved by the Commission, and failure to secure approval before commencing construction of such works or making a discharge is a violation of this permit and each day is an additional violation until approval has been secured.
- c. Permits for domestic wastewater treatment plants are granted subject to the policy of the Commission to encourage the development of area-wide waste collection, treatment and disposal systems. The Commission reserves the right to amend any domestic wastewater permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an area-wide system, should such be developed; to require the delivery of the wastes authorized to be collected in, treated by or discharged from said system, to such area-wide system; or to amend this permit in any other particular to effectuate the Commission's policy. Such amendments may be made when the changes required are advisable for water quality control purposes and are feasible on the basis of waste treatment technology, engineering, financial, and related considerations existing at the time the changes are required, exclusive of the loss of investment in or revenues from any then existing or proposed waste collection, treatment or disposal system.

9. Domestic wastewater treatment plants shall be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30.

10. For Publicly Owned Treatment Works (POTWs), the 30-day average (or monthly average) percent removal for BOD and TSS shall not be less than 85 percent, unless otherwise authorized by this permit.

11. Facilities which generate industrial solid waste as defined in 30 TAC § 335.1 shall comply with these provisions:

- a. Any solid waste, as defined in 30 TAC § 335.1 (including but not limited to such wastes as garbage, refuse, sludge from a waste treatment, water supply treatment plant or air pollution control facility, discarded materials, discarded materials to be recycled, whether the waste is solid, liquid, or semisolid), generated by the permittee during the management and treatment of wastewater, must be managed in accordance with all applicable provisions of 30 TAC Chapter 335, relating to Industrial Solid Waste Management.
- b. Industrial wastewater that is being collected, accumulated, stored, or processed before discharge through any final discharge outfall, specified by this permit, is considered to be industrial solid waste until the wastewater passes through the actual point source discharge and must be managed in accordance with all applicable provisions of 30 TAC Chapter 335.

- c. The permittee shall provide written notification, pursuant to the requirements of 30 TAC § 335.8(b)(1), to the Corrective Action Section (MC 127) of the Remediation Division informing the Commission of any closure activity involving an Industrial Solid Waste Management Unit, at least 90 days prior to conducting such an activity.
- d. Construction of any industrial solid waste management unit requires the prior written notification of the proposed activity to the Registration and Reporting Section (MC 129) of the Registration, Review, and Reporting Division. No person shall dispose of industrial solid waste, including sludge or other solids from wastewater treatment processes, prior to fulfilling the deed recordation requirements of 30 TAC § 335.5.
- e. The term "industrial solid waste management unit" means a landfill, surface impoundment, waste-pile, industrial furnace, incinerator, cement kiln, injection well, container, drum, salt dome waste containment cavern, or any other structure vessel, appurtenance, or other improvement on land used to manage industrial solid waste.
- f. The permittee shall keep management records for all sludge (or other waste) removed from any wastewater treatment process. These records shall fulfill all applicable requirements of 30 TAC Chapter 335 and must include the following, as it pertains to wastewater treatment and discharge:
 - i. Volume of waste and date(s) generated from treatment process;
 - ii. Volume of waste disposed of on-site or shipped off-site;
 - iii. Date(s) of disposal;
 - iv. Identity of hauler or transporter;
 - v. Location of disposal site; and
 - vi. Method of final disposal.

The above records shall be maintained on a monthly basis. The records shall be retained at the facility site, or shall be readily available for review by authorized representatives of the TCEQ for at least five years.

- 12. For industrial facilities to which the requirements of 30 TAC Chapter 335 do not apply, sludge and solid wastes, including tank cleaning and contaminated solids for disposal, shall be disposed of in accordance with Chapter 361 of the Texas Health and Safety Code.

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OTHER REQUIREMENTS

1. Violations of daily maximum limitations for the following pollutants shall be reported orally or by facsimile to TCEQ Region 4, within 24 hours from the time the permittee becomes aware of the violation followed by a written report within five working days to TCEQ Region 4 and the Enforcement Division (MC 224): None.

<u>POLLUTANT</u>	<u>MAL (mg/L)</u>
Total Copper	0.01

Test methods utilized shall be sensitive enough to demonstrate compliance with the permit effluent limitations. Permit compliance/noncompliance determinations will be based on the effluent limitations contained in this permit with consideration given to the minimum analytical level (MAL) for the parameters specified above.

When an analysis of an effluent sample for any of the parameters listed above indicates no detectable levels above the MAL and the test method detection level is as sensitive as the specified MAL, a value of zero (0) shall be used for that measurement when determining calculations and reporting requirements for the self-reporting form. This applies to determinations of daily maximum concentration, calculations of loading and daily averages, and other reportable results.

When a reported value is zero (0) based on this MAL provision, the permittee shall submit the following statement with the self-reporting form either as a separate attachment to the form or as a statement in the comments section of the form.

"The reported value(s) of zero (0) for [list parameter(s)] on the self-reporting form for [monitoring period date range] is based on the following conditions: 1) the analytical method used had a method detection level as sensitive as the MAL specified in the permit, and 2) the analytical results contained no detectable levels above the specified MAL."

When an analysis of an effluent sample for a parameter indicates no detectable levels and the test method detection level is not as sensitive as the MAL specified in the permit, or an MAL is not specified in the permit for that parameter, the level of detection achieved shall be used for that measurement when determining calculations and reporting requirements for the self-reporting form. A zero (0) may not be used.

2. There is no mixing zone established for this discharge to an intermittent stream. Acute toxic criteria apply at the point of discharge.
3. The permittee is hereby placed on notice that this permit may be reviewed by the TCEQ after the completion of any new intensive water quality survey on Segment No. 0828 of the Trinity River Basin and any subsequent updating of the water quality model for Segment No. 0828, in order to determine if the limitations and conditions contained herein are consistent with any such revised model. The permit may be amended, pursuant to 30 TAC Sections 305.62, as a result of such review.

4. SCHEDULE OF COMPLIANCE FOR WATER QUALITY BASED EFFLUENT LIMITS

The permittee shall comply with the following schedule of activities for the attainment of water quality-based final effluent limitations for Total Copper at Outfall 001:

- a. Determine exceedance cause(s);
- b. Develop control options;
- c. Evaluate and select control mechanisms;
- d. Implement corrective action; and
- e. Attain final effluent limitations no later than three years from the date of permit issuance.

The permittee shall submit quarterly progress reports in accordance with the following schedule. The requirement to submit quarterly progress reports shall expire three years from the date of permit issuance.

PROGRESS REPORT DATE

January 1

April 1

July 1

October 1

The quarterly progress reports shall include a discussion of the interim requirements that have been completed at the time of the report and shall address the progress towards attaining the water quality-based final effluent limitations for total copper at Outfall 001 no later than three years from the date of permit issuance.

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date. Any reports of noncompliance shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.

All reports shall be submitted to the Region 4 Office and to the Enforcement Division (MC 224) of the TCEQ.

STATEMENT OF BASIS/TECHNICAL SUMMARY AND
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

DESCRIPTION OF APPLICATION

Applicant: JOCO Holding Corporation; Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0002730000 (TX0127671).

Regulated Activity: Industrial Wastewater Permit.

Type of Application: Amendment.

Request: Major Amendment with renewal to authorize the discharge of treated domestic and food wastewaters at a volume not to exceed a daily average flow of 10,000 gallons per day.

Authority: Federal Clean Water Act - Section 402; Texas Water Code § 26.027; 30 TAC Chapter 305, Subchapters C-F, Chapters 307 and 319, Commission Policies and EPA Guidelines.

EXECUTIVE DIRECTOR RECOMMENDATION

The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. It is proposed the permit be issued to expire on September 1, 2006 in accordance with 30 TAC Section 305.71, Basin Permitting.

REASON FOR PROJECT PROPOSED

The applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for a major amendment of its existing permit, to authorize the discharge of treated domestic and food wastewaters at a volume not to exceed a daily average flow of 10,000 gallons per day. The current permit authorizes the disposal of their wastewater via irrigation.

PROJECT DESCRIPTION AND LOCATION

The applicant operates a motel and restaurant complex.

The motel and restaurant process wastewater is treated by an activated sludge plant operated in the extended aeration mode. No pretreatment is applied to this type of domestic wastewater. The treatment process includes a lift station, aeration basin, clarifier, effluent weir, discharge pipe, and a twenty-one day holding period. A chlorinator and/or chlorine contact basin, as well as a sludge digester and bar screen is included in the treatment facility.

The plant site is located on the east side of Interstate Highway 35 West, approximately 2000 feet southeast of the Bethesda Road overpass and approximately 5.1 miles southeast, Johnson County, Texas.

The effluent will be discharged to a series of ditches; thence to Quil Miller Creek; thence to Village Creek; thence to Lake Arlington in Segment No. 0828 of the Trinity River Basin. The unclassified receiving waters have no significant aquatic life use for the series of ditches and Quil Miller Creek. The designated uses for Segment No. 0828 are high aquatic life use, contact recreation, and public water supply. The effluent limits in the draft permit will maintain and protect the existing instream uses. A Tier 1 antidegradation review has preliminarily determined that the existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. This review has preliminarily determined that no water bodies with exceptional, high, or intermediate aquatic life uses are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life uses down stream, and existing uses will be maintained and protected. All determinations are preliminary and subject to additional review and/or revisions.

STATEMENT OF BASIS/TECHNICAL SUMMARY AND
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION
TPDES Permit No. WQ0002730000

The discharge from this permit is not expected to have an effect on any federal endangered or threatened aquatic or aquatic dependent species or proposed species or their critical habitat. This determination is based on the United States Fish and Wildlife Service's (USFWS) biological opinion on the State of Texas authorization of the Texas Pollutant Discharge Elimination System (TPDES; September 14, 1998; October 21, 1998 update). To make this determination for TPDES permits, TCEQ and EPA only considered aquatic or aquatic dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. The permit does not require EPA review with respect to the presence of endangered or threaten species.

Segment No. 0828 is not currently listed on the State's inventory of impaired and threatened waters, Texas 2000 Clean Water Act Section 303(d) List, Texas Commission on Environmental Quality, December 2002.

SUMMARY OF EFFLUENT DATA

Self-reporting data is not available because the facility has not discharged.

PROPOSED PERMIT CONDITIONS

The draft permit authorizes a discharge of treated domestic wastewater and via Outfall 001 at a daily average flow not to exceed 0.010 million gallons per day.

Final effluent limitations are established in the draft permit as follows:

<u>Outfall</u>	<u>Parameter</u>	<u>Average of Daily Avg</u>	<u>Maximum of Daily Max</u>
001	Flow (MGD) (*1)	0.010	0.020
	Biological Oxygen Demand (5-day), (BOD ₅)	20 mg/l (*2)	45 mg/l
	Total Suspended Solids, (TSS)	20 mg/l	45 mg/l
	Dissolved Oxygen, (DO)	2.0 mg/l (minimum)	N/A
	Total Residual Chlorine	1.0 minimum	4.0 maximum
	Total Copper (*3)	Report, mg/l	Report, mg/l
	Total Copper (*4)	0.042 mg/l	0.089 mg/l
	Oil and Grease	15 mg/l	20 mg/l
	pH, Standard Units	6.5 (minimum)	9.0 (maximum)

(*1) Million Gallons per Day (*2) Milligrams per liter (*3) Beginning upon the date of issuance of permit and lasting for three years. (*4) Beginning three years after issuance of permit and lasting until permit expiration.

Regulations promulgated in Title 40 of the Code of Federal Regulations require technology-based limitations be placed in wastewater discharge permits based on effluent limitations guidelines, where applicable, and/or on best professional judgment (BPJ) in the absence of guidelines. The discharge of treated domestic and food wastewaters from a motel and restaurant is not subject to federal effluent limitation guidelines. Water quality-based effluent limitations for the protection of aquatic life and human health are calculated in Appendix A. Effluent characteristic data of one sample for Outfall 001, provided by the applicant were compared against the 70% and 85% thresholds to determine if new monitoring and/or effluent limits are necessary. Total Copper exceeded both the 70% and 85% thresholds, therefore requiring permit limit actions in the form of a three year compliance period for Total Copper resulting in a 0.042 mg/l daily average and 0.089 mg/l daily maximum. Based on BPJ, the recommended effluent limits of 20 mg/l BOD₅, 20 mg/l TSS, 2mg/l DO, 1-4.0 mg/l Total Residual Chlorine, and 15 mg/l Oil & Grease are determined to be adequate to ensure that the dissolved levels will be maintained above the established criteria.

STATEMENT OF BASIS/TECHNICAL SUMMARY AND
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION
TPDES Permit No. WQ0002730000

SUMMARY OF CHANGES FROM APPLICATION

The following changes have been made from the application which make the draft permit more stringent.

1. The permittee provided effluent analytical data that showed Total Copper concentrations greater than 85% of the permitted limits and therefore an effluent limit is required. The permittee has been given a three year compliance period.

See the next section for additional changes to the existing permit.

SUMMARY OF CHANGES FROM EXISTING PERMIT

The following additional changes have been made to the draft permit.

1. The draft permit is a TPDES discharge permit, while the existing permit is not a discharge permit. This change results in a draft permit with more effluent monitoring and reporting requirements, more protective effluent screening and requirements, along with other changes described in this document than the previous irrigation/evaporation permit.
2. Added Other Requirement No. 2, which defines the mixing zone for Outfall 001.
3. Added Other Requirement No. 3., which contains a reopener clause based on water quality.
4. Added Other Requirement No. 4., which contains compliance period requirements for Total Cooper limits at Outfall 001.

BASIS FOR PROPOSED DRAFT PERMIT

The following items were considered in developing the proposed permit draft:

1. Application received October 20, 2004 and additional information received on August 18, 2005.
2. Existing permits: TCEQ Permit No. WQ0002730000 issued August 14, 2001.
3. A Waste Load Evaluation has not been prepared for Segment No. 0828.
4. TCEQ Rules.
5. Texas Surface Water Quality Standards - 30 TAC Sections 307.1-307.10, effective April 30, 1997, and Appendix E, effective February 27, 2002.
6. "Procedures to Implement the Texas Surface Water Quality Standards," Texas Commission on Environmental Quality, January 2003.
7. Memos from the Water Quality Standards Team and the Water Quality Assessment Team of the Water Quality Assessment Section of the TCEQ.
8. "Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits," TCEQ Document No. 98-001.000-OWR-WQ, May 1998.
9. EPA Effluent Guidelines: N/A
10. Consistency with the Coastal Management Plan: "Not Applicable"

STATEMENT OF BASIS/TECHNICAL SUMMARY AND
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION
TPDES Permit No. WQ0002730000

PROCEDURES FOR FINAL DECISION

When an application is declared administratively complete, the Chief Clerk sends a letter to the applicant advising the applicant to publish the Notice of Receipt of Application and Intent to Obtain Permit in the newspaper. In addition, the Chief Clerk instructs the applicant to place a copy of the application in a public place for review and copying in the county where the facility is or will be located. This application will be in a public place throughout the comment period. The Chief Clerk also mails this notice to any interested persons and, if required, to landowners identified in the permit application. This notice informs the public about the application, and provides that an interested person may file comments on the application or request a contested case hearing or a public meeting.

Once a draft permit is completed, it is sent, along with the Executive Director's preliminary decision, as contained in the technical summary or fact sheet, to the Chief Clerk. At that time, Notice of Application and Preliminary Decision will be mailed to the same people and published in the same newspaper as the prior notice. This notice sets a deadline for making public comments. The applicant must place a copy of the Executive Director's preliminary decision and draft permit in the public place with the application. This notice sets a deadline for public comment.

Any interested person may request a public meeting on the application until the deadline for filing public comments. A public meeting is intended for the taking of public comment, and is not a contested case proceeding. After the public comment deadline, the Executive Director prepares a response to all significant public comments on the application or the draft permit raised during the public comment period. The Chief Clerk then mails the Executive Director's Response to Comments and Final Decision to people who have filed comments, requested a contested case hearing, or requested to be on the mailing list. This notice provides that if a person is not satisfied with the Executive Director's response and decision, they can request a contested case hearing or file a request to reconsider the Executive Director's decision within 30 days after the notice is mailed.

The Executive Director will issue the permit unless a written hearing request or request for reconsideration is filed within 30 days after the Executive Director's Response to Comments and Final Decision is mailed. If a hearing request or request for reconsideration is filed, the Executive Director will not issue the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

If the Executive Director calls a public meeting or the Commission grants a contested case hearing as described above, the Commission will give notice of the date, time, and place of the meeting or hearing. If a hearing request or request for reconsideration is made, the Commission will consider all public comments in making its decision and shall either adopt the Executive Director's response to public comments or prepare its own response.

For additional information about this application contact Charles K. Shepphard at (512) 239-4487.

Charles K. Shepphard

Date

STATEMENT OF BASIS/TECHNICAL SUMMARY AND
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION
TPDES Permit No. WQ0002730000

CALCULATED WATER-QUALITY BASED EFFLUENT LIMITATIONS

TEXTTOX MENU #1 - INTERMITTENT STREAM

Acute aquatic life criteria apply at the discharge point. Water quality-based effluent limitations are demonstrated below and calculated using:

- Table 1, 1997 Texas Surface Water Quality Standards (30 TAC 307) for Freshwater Aquatic Life
- "Procedures to Implement the Texas Surface Water Quality Standards," Texas Commission on Environmental Quality, January 2003.

PERMITTEE INFORMATION:

Permittee Name:	JOCO Holding Corporation
TPDES Permit No:	WQ0002730000
Outfall No:	001

DISCHARGE INFORMATION:

Immediate Receiving Waterbody:	A series of ditches
Segment No:	0828
TSS:	5
pH:	7.5
Hardness:	101
Chloride:	19
Effluent Flow for Aquatic Life (MGD)	.010
Critical Low Flow [7Q2] (cfs)	0.0
Percent Effluent for Zone of Initial Dilution:	100

CALCULATE TOTAL/DISSOLVED RATIO:

Stream/River Metal	Intercept (b)	Slope (m)	Partition Coefficient (K _{po})	Dissolved Fraction (Cd/Ct)		Water Effects Ratio (WER)	
Aluminum	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Arsenic	5.68	-0.73	147826.365	0.58		1	Assumed
Cadmium	6.60	-1.13	645897.934	0.24		1	Assumed
Chromium (Total)	6.52	-0.93	741238.376	0.21		1	Assumed
Chromium (+3)	6.52	-0.93	741238.376	0.21		1	Assumed
Chromium (+6)	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Copper	6.02	-0.74	318245.445	0.39		1	Assumed
Lead	6.45	-0.80	777721.306	0.20		1	Assumed
Mercury	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Nickel	5.69	-0.57	195698.320	0.51		1	Assumed
Selenium	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Silver	6.38	-1.03	457152.286	0.30		1	Assumed
Zinc	6.10	-0.70	408057.155	0.33		1	Assumed

STATEMENT OF BASIS/TECHNICAL SUMMARY AND
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION
TPDES Permit No. WQ0002730000

AQUATIC LIFE

CALCULATE DAILY AVERAGE AND DAILY MAXIMUM EFFLUENT LIMITATIONS

Parameter	Acute Standard (ug/L)	WLAa	LTAa	Daily Avg. (ug/L)	Daily Max. (ug/L)
Aldrin	3.0	3.000	1.719	2.527	5.346
Aluminum ^d	991	991.000	567.843	834.729	1765.992
Arsenic ^d	360	626.087	358.748	527.360	1115.707
Cadmium ^d	34.071	144.104	82.572	121.380	256.798
Carbaryl	2.0	2.000	1.146	1.685	3.564
Chlordane	2.4	2.400	1.375	2.022	4.277
Chlorpyrifos	0.083	0.083	0.048	0.070	0.148
Chromium (+3) ^d	1750.722	8239.235	4721.082	6939.990	14682.564
Chromium (+6) ^d	16	16.000	9.168	13.477	28.512
Copper ^d	19.375	50.204	28.767	42.287	89.465
Cyanide (free)	45.78	45.780	26.232	38.561	81.581
4,4'-DDT	1.1	1.100	0.630	0.927	1.960
Dementon	N/A	0.000	N/A	N/A	N/A
Dicofol	59.3	59.300	33.979	49.949	105.674
Dieldrin	2.5	2.500	1.433	2.106	4.455
Diuron	210	210.000	120.330	176.885	374.226
Endosulfan I (alpha)	0.22	0.220	0.126	0.185	0.392
Endosulfan II (beta)	0.22	0.220	0.126	0.185	0.392
Endosulfan sulfate	0.22	0.220	0.126	0.185	0.392
Endrin	0.18	0.180	0.103	0.152	0.321
Guthion	N/A	0.000	N/A	N/A	N/A
Heptachlor	0.52	0.520	0.298	0.438	0.927
Hexachlorocyclohexane (Lindane)	2.0	2.000	1.146	1.685	3.564
Lead ^d	82.686	404.219	231.617	340.477	720.330
Malathion	N/A	0.000	N/A	N/A	N/A
Mercury	2.4	2.400	1.375	2.022	4.277
Methoxychlor	N/A	N/A	N/A	N/A	N/A
Mirex	N/A	N/A	N/A	N/A	N/A
Nickel ^d	1430.232	2829.702	1621.419	2383.486	5042.614
Parathion (ethyl)	0.065	0.065	0.037	0.055	0.116
Pentachlorophenol	14.992	14.992	8.590	12.628	26.716
Phenanthrene	30	30.000	17.190	25.269	53.461
Polychlorinated Biphenyls (PCBs)	2.0	2.000	1.146	1.685	3.564
Selenium	20	20.000	11.460	16.846	35.641
Silver, (free ion)	0.92	6.329	3.627	5.331	11.279
Toxaphene	0.78	0.780	0.447	0.657	1.390
Tributyltin (TBT)	0.13	0.130	0.074	0.110	0.232
2,4,5 Trichlorophenol	136	136.000	77.928	114.554	242.356
Zinc ^d	118.013	358.792	205.588	302.214	639.378

STATEMENT OF BASIS/TECHNICAL SUMMARY AND
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION
TPDES Permit No. WQ0002730000

CALCULATE 70% AND 85% OF DAILY AVERAGE EFFLUENT LIMITATIONS

Parameter	70%	85%
Aldrin	1.769	2.148
Aluminum	584.310	709.520
Arsenic	369.152	448.256
Cadmium	84.966	103.173
Carbaryl	1.179	1.432
Chlordane	1.415	1.718
Chlorpyrifos	0.049	0.059
Chromium (+3)	4857.993	5898.991
Chromium (+6)	9.434	11.455
Copper	29.601	35.944
Cyanide (free)	26.993	32.777
4,4'-DDT	0.649	0.788
Dementon	N/A	N/A
Dicofol	34.964	42.457
Dieldrin	1.474	1.790
Diuron	123.820	150.352
Endosulfan I (alpha)	0.130	0.158
Endosulfan II (beta)	0.130	0.158
Endosulfan sulfate	0.130	0.158
Endrin	0.106	0.129
Guthion	N/A	N/A
Heptachlor	0.307	0.372
Hexachlorocyclohexane (Lindane)	1.179	1.432
Lead	238.334	289.406
Malathion	N/A	N/A
Mercury	1.415	1.718
Methoxychlor	N/A	N/A
Mirex	N/A	N/A
Nickel	1668.440	2025.963
Parathion (ethyl)	0.038	0.047
Pentachlorophenol	8.839	10.734
Phenanthrene	17.689	21.479
Polychlorinated Biphenyls (PCBs)	1.179	1.432
Selenium	11.792	14.319
Silver, (free ion)	3.732	4.532
Toxaphene	0.460	0.558
Tributyltin (TBT)	0.077	0.093
2,4,5 Trichlorophenol	80.188	97.371
Zinc	211.550	256.882

“ATTACHMENT B”

Compliance History

Compliance History

Customer/Respondent/Owner-Operator:	CN601121593	Joco Holding Corporation	Classification: AVERAGE	Rating: 11.67
Regulated Entity:	RN102077518	RESTAURANT MOTEL	Classification: AVERAGE	Site Rating: 11.67
ID Number(s):	WASTEWATER WASTEWATER LICENSING	PERMIT LICENSE	WQ0002730000 WQ0002730000	
Location:	LOCATED ON THE E SIDE OF IH 35 W APPROX 2000 FT SE OF THE BETHESDA RD OVERPASS AND APPROX 5.1 MI OF THE CITY OF BURLESON IN JOHNSON COUNTY		Rating Date: 9/1/2006 Repeat Violator: NO	
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	February 21, 2007			
Agency Decision Requiring Compliance History:	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.			
Compliance Period:	October 20, 1999 to February 21, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	CHARLES SHEPPHARD		Phone:	(512) 239-4487

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | | |
|---|------------|----------|--|
| 1 | 04/28/2003 | (31221) | |
| 2 | 08/04/2006 | (484589) | |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|--------------|---|-----------------|----------|
| Date: | 04/25/2003 | (31221) | |
| Self Report? | NO | Classification: | Minor |
| Rqmt Prov: | PERMIT WQ0002730-000 | | |
| Description: | Failure to collect, analyze and submit the 2002 annual soil samples and results of the irrigation field. | | |
| Self Report? | NO | Classification: | Moderate |
| Rqmt Prov: | PERMIT WQ0002730-000 | | |
| Description: | Failure to submit the annual report including the volume and quality of the wastewater used for irrigation, the acreage which has been irrigated, and the soil sampling results for the preceding year. | | |
| Self Report? | NO | Classification: | Moderate |
| Rqmt Prov: | PERMIT WQ002730-000 | | |
| Description: | Failure to submit the annual cropping plan. | | |
| Self Report? | NO | Classification: | Minor |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Rqmt Prov: | PERMIT WQ0002730-000 | | |
| Description: | Failure to monitor the package plant's daily average flow. | | |
| Self Report? | NO | Classification: | Moderate |
| Citation: | 30 TAC Chapter 317 317.4(a)(5) | | |
| Description: | Failure to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures. | | |

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)		
Description:	Failure to properly maintain the storage pond.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Rqmt Prov:	PERMIT WQ0002730-000		
Description:	Failure to comply with the not greater than 9.0 s.u. pH permit limitation.		
Date:	08/04/2006 (484589)		
Self Report?	NO	Classification:	Minor
Rqmt Prov:	PERMIT WQ0002730-000		
Description:	Failure to collect, analyze and submit the 2002 annual soil samples and results of the irrigation field.		
Self Report?	NO	Classification:	Moderate
Rqmt Prov:	PERMIT WQ0002730-000		
Description:	Failure to submit the annual report including the volume and quality of the wastewater used for irrigation, the acreage which has been irrigated, and the soil sampling results for the preceding year.		
Self Report?	NO	Classification:	Moderate
Rqmt Prov:	PERMIT WQ002730-000		
Description:	Failure to submit the annual cropping plan.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Rqmt Prov:	PERMIT WQ0002730-000		
Description:	Failure to monitor the package plant's daily average flow.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 317 317.4(a)(5)		
Description:	Failure to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)		
Description:	Failure to properly maintain the storage pond.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c)		
Description:	Failure to maintain effluent monitoring records.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to maintain adequate sludge disposal records.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.4(b)(1)		
Description:	Failure to maintain the treatment systems.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to dispose of sludge properly.		

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

“ATTACHMENT C”

Executive Director’s Response to Comment (RTC)

TPDES PERMIT NO. WQ0002730000

APPLICATION BY
JOCO Holding Corporation
TPDES PERMIT NO. WQ0002730000

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§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CHIEF CLERK'S OFFICE

2006 NOV - 2 4 11:43

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the application by JOCO Holdings Corporation (Applicant), for a major amendment to TCEQ Permit Number WQ0002730000 and on the Executive Director's preliminary decision. As required by Title 30 of the Texas Administrative Code (30 TAC), Section 55.156, before an application is approved, the Executive Director prepares a response to all timely, relevant and material, or significant comment. The Office of Chief Clerk timely received comment letters from the following persons: Ken Olsen, Albert Germain, Bobby G. Brown, Roger Holcomb, Patsy Lauderback, Nina Faye Brown, Norman Lassetter, Tim Davis, K.C. Neubauer, Floyd Watkins, Bennie Fay Woods, Rand Rademaker, Sonny J. Creach, and J. Walker Holland, P.C. This Response addresses all timely public comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.state.tx.us.

BACKGROUND

Description of Facility

The Applicant operates a motel and restaurant complex and has applied to the TCEQ for a major amendment to TCEQ Permit Number WQ0002730000 to authorize the discharge of treated domestic and food wastewaters at a volume not to exceed a daily average flow of 10,000 gallons per day via Outfall 001. The current permit, TCEQ Permit Number WQ0002730000, authorizes the disposal of domestic wastewater by evaporation and irrigation of 152 acres of coastal bermuda grass at an application rate not to exceed 3.85 acre-feet per year per acre irrigated. This application for a major amendment was submitted to the TCEQ on October 20, 2004.

The facility is located on the east side of Interstate Highway 35 West, approximately 2000 feet southeast of the Bethesda Road overpass and approximately 5.1 miles southeast of the City of Burleson, Johnson County, Texas. The effluent will be discharged to a series of ditches; thence to Quil Miller Creek; thence to Village Creek; thence to Lake Arlington, in Segment No. 0828 of the Trinity River Basin.

Procedural Background

The application was submitted on October 20, 2004 and declared administratively complete on January 28, 2005. Notice of Receipt and Intent (NORI) was published February 9, 2005, in the *Burleson Star*. The Executive Director completed the technical review of the application on April 15, 2005, and prepared a draft permit. Notice of Application and Preliminary Decision (NAPD1) was published November 2, 2005, in the *Burleson Star*. A public meeting was held on June 22, 2006. No comments were received at the public meeting. Notice of Application and Preliminary Decision (NAPD2) was republished on August, 21, 2006, in the *Burleson Star*. The comment period closed on September 22, 2006. House Bill 801 applies to this application.

COMMENTS AND RESPONSES

COMMENT 1:

Ken Olsen, Albert Germain, Bobby G. Brown, Roger Holcomb, Patsy Lauderback, Nina Faye Brown, Norman Lassetter, Tim Davis, K.C. Neubauer, Floyd Watkins, Bennie Fay Woods, Rand Rademaker, and Sonny J. Creach all commented that the permit application was not available for viewing and copying at the U.S. Post Office at 232 Southwest Johnson Avenue, Burleson, Texas.

RESPONSE 1:

The Applicant is required to complete an Application Availability Verification Form (AAVF) for each wastewater permit application submitted to the TCEQ. The AAVF requires that the Applicant certify that a copy of the complete permit application, including revisions, draft permit, and the Executive Director's preliminary decision, was made available at a public place in the county where the facility is located "in accordance with the provisions of 30 TAC, Section 39.405(g)(2)." This provision also provides that the application shall be available "beginning on the first day of newspaper publication required by this section and remain available until final resolution, either by TCEQ or the State Office of Administrative Hearing (SOAH)." The TCEQ received the Applicant's AAVF on November 15, 2005, stating that the application was available at the Burleson City Hall during the comment period. However, the NORI stated that the application was available at the U.S. Post Office in Burleson.

In response to Comment 1, the Applicant was required to republish the NAPD and submit a new AAVF. The AAVF certified that a copy of the application was available at the Environmental Services City Service Center, 1675 S.E. John Jones, Burleson, Texas. This is consistent with the republished NAPD.

COMMENT 2:

Ken Olsen, Albert Germain, Bobby G. Brown, Roger Holcomb, Patsy Lauderback, Nina Faye Brown, Norman Lassetter, Tim Davis, K.C. Neubauer, Floyd Watkins, Bennie Fay Woods, Rand Rademaker, and Sonny J. Creach commented that Quil Miller Creek is in a flood zone.

RESPONSE 2:

The wastewater permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. The TCEQ has not considered flooding in water quality permit processing. However, proposed permit does not authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations.

COMMENT 3:

J. Walker Holland and Nina Faye Brown commented that they own the property down gradient from the above-referenced motel and restaurant complex and that they object to effluent discharged to creeks that traverse their property. Tim Davis also expressed concern regarding how the Applicant will get the 10,000 gallons of water per day to Quil Miller Creek.

RESPONSE 3:

The issuance of this permit does not grant to the permittee the right to use private or public property for conveyance of wastewater along the discharge route described in this permit. This includes, but is not limited to, property belonging to any individual, partnership, corporation, or other entity. Neither does this permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire property rights as may be necessary to use the discharge route.

COMMENT 4:

Tim Davis and Nina Faye Brown commented that they graze cattle along the discharge route and do not want their cows drinking treated wastewater or eating grass that is growing in wastewater land.

RESPONSE 4:

The draft permit was written to comply with the Texas Surface Water Quality Standards (30 TAC, Chapter 307). The Texas Surface Water Quality Standards require that any discharge maintain water quality consistent with the protection of human health, terrestrial life, and aquatic life. The effluent from the proposed facility has reported a TDS concentration of 662 mg/L of TDS and therefore should not pose a problem for cattle consumption. The permittee's effluent analysis provided with the permit application yielded a nitrate nitrogen level of 17 mg/L nitrate nitrogen. This level of nitrate nitrogen should not pose a problem to the cattle.

The permittee has also proposed to chlorinate the effluent to preclude bacterial contamination to surface water which should prevent bacterial infection of any cattle drinking from the receiving stream.

No changes to the draft permit have been made.

Respectfully submitted,

Glenn Shankle, Executive Director
Texas Commission on Environmental Quality

Robert Martinez, Director
Environmental Law Division
Texas Commission on Environmental Quality

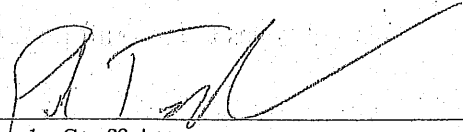
By 

Paul Tough, Staff Attorney
Environmental Law Division
State Bar No. 24051440
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
(512) 239-6996 (PH)
(512) 239-0606 (FAX)

REPRESENTING THE EXECUTIVE
DIRECTOR OF THE TEXAS
COMMISSION ON ENVIRONMENTAL
QUALITY

CERTIFICATE OF SERVICE

I hereby certify that on November 2, 2006, a true and correct copy of the "Executive Director's Response to Public Comment" for Permit No. WQ0002730000 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



Paul Tough, Staff Attorney
Environmental Law Division
Texas Commission on Environmental Quality

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
206 NOV - 2 AM 11:43
CHIEF CLERKS OFFICE